

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE NEW ENGLAND COMPOUNDING)	
PHARMACY, INC. PRODUCTS LIABILITY)	MDL No. 02419
LITIGATION)	
_____)	Docket No. 1:13-md-2419-RWZ
This document relates to:)	
All Cases against the Box Hill Defendants ¹)	
)	

MOTION FOR LEAVE TO APPEAR BY TELEPHONE

Defendants, Box Hill Surgery Center, LLC, Ritu T. Bhambhani, M.D., and Ritu T. Bhambhani, M.D., LLC, ("Box Hill Defendants") by and through their undersigned counsel, hereby move for this Court to allow attorney Gregory K. Kirby to appear via telephone for the July 14, 2016 hearing on the Motion for Protective Order filed by non-party Barbara Wagner (see Docket Nos. 2953, 2957). In support of this Motion, Box Hill Defendants state as follows:

1. Attorney Gregory K. Kirby represents the Box Hill Defendants in the Box Hill cases in which Plaintiffs' counsel noted the deposition of non-party witness Barbara Wagner, which is the subject of a hearing on July 14, 2016 in front of Judge Boal.
2. Mr. Kirby did not file the motion for protective order, which was instead filed by Ms. Wagner's own counsel, Ms. Marucci. It is anticipated that Ms. Marucci and local Plaintiffs'

¹ This pleading applies to the following cases: Handy v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14019-RWZ; Armetta v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14022-RWZ; Torbeck v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14023-RWZ; Kashi v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14026-RWZ; Bowman v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14028-RWZ; Dreisch v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14029-RWZ; Davis v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14033-RWZ; Farthing v. Box Hill Surgery Center, LLC, et al. No. 1:14-cv-14036-RWZ

counsel who noted the deposition will present argument. While Mr. Kirby will respond if appropriate and/or if addressed, he will otherwise have limited involvement in the hearing.

3. Mr. Kirby is located in Maryland, where the parties to these actions and the fact witness involved in this motion also live and work, and where the alleged negligent medical care and injury occurred. Although, Mr. Kirby has been admitted to practice *pro hac vice* before this Court in the MDL proceedings, it would place an undue burden and expense for Mr. Kirby to be required to travel to Massachusetts for the hearing on the Motion for Protective Order. That is especially true since it is believed that non-party and Plaintiffs' counsel arguing this motion also practice in Maryland and have requested or will request to appear by telephone as well.

4. Accordingly, Mr. Kirby respectfully requests to appear for the hearing to address the Motion for Protective Order via telephone before Judge Boal on July 14, 2016 at 3:30 p.m.

WHEREFORE, the Box Hill Defendants respectfully request that their counsel, Gregory K. Kirby, be permitted to appear via telephone for the July 14, 2016 hearing on non-party Barbara Wagner's Motion for Protective Order, and request such other relief as this Court deems just and proper under the circumstances.

Dated: July 1, 2016

Respectfully submitted,

/s/ Gregory K. Kirby

Gregory K. Kirby

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Attorneys for Box Hill Surgery Center, L.L.C.,

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CERTIFICATE OF SERVICE

I, Gregory K. Kirby, hereby certify that a copy of the foregoing Motion for Leave to Appear by Telephone, filed through the CM/ECF system, will be accessible to those attorneys who are registered with the Court's electronic filing system and Notice of Electronic filing (NEF), including the attorneys representing the plaintiffs in the individual cases, and will be sent to these parties by operation of the CM/ECF system.

Dated: July 1, 2016

/s/ Gregory K. Kirby

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